

CITY OF MUSKEGON  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES

January 14, 2003

Chairman S. Schiller called the meeting to order at 4:05 p.m., and roll was taken.

MEMBERS PRESENT: C. Kufra, S. Schiller, R. Hilt, D. Narowitz, R. Schweifler, J. Clingman-Scott

MEMBERS ABSENT: D. Newsome

STAFF PRESENT: B. Moore, H. Griffith

OTHERS PRESENT: L. Leiter, 2984 Lakeshore; J. Gleason, 2976 Lakeshore; C. Atwood, 1145 W Laketon.

APPROVAL OF MINUTES

A motion to approve the minutes of the regular meeting of December 10, 2002 and the special meeting of December 30, 2002, was made by J. Clingman-Scott, supported by R. Hilt and unanimously approved.

PUBLIC HEARINGS

Hearing: Case 2002-25: Variance request to permit a detached garage to be placed in front of the front building line at 2984 Lakeshore Dr., by Lee Leiter. (tabled). B. Moore presented the staff report. The subject property is located on Lakeshore Dr., west of the Balcom's Cove development and contains a residence and two existing detached garages. The applicant wishes to demolish one of the existing garages and to build a new, larger garage, at a different location on the lot. The second existing garage he would like to keep for at least a year and possibly demolish after that time. Staff is not comfortable with more than one garage being associated with a single-family structure. The Zoning Ordinance allows detached accessory structures, but requires that they be located behind the front building line of the home. In the case of the subject property, the home is located near the rear of the property, closer to Muskegon Lake, which does not leave room to place an accessory structure behind it. The two existing garages are nonconforming as they are located in the front yard. Staff has not received any phone calls or letters on this case. The City attorney felt that the ZBA did not have the authority to require someone to give up a property right (i.e., the access easement we learned went over the neighbor's property). If the ZBA felt the proposed garage was effecting the neighbor's ability to enjoy his property because it is close to the property line and the joint access easement the ZBA could require the garage be shifted west, or deny the request altogether. Lakeshore is a major road, and the front setback must be at least 25 feet from the road right-of-way line. If the ZBA is inclined to approve the request, having paved parking and access to the garage is something to

consider. This would not prevent the use of the existing easement, but it may be a more practical means of access to the proposed garage.

A motion to re-open the public hearing was made by R. Hilt, supported by R. Schweifler and unanimously approved.

L. Leiter submitted a new plan to the commission members. He would like to make the garage larger (50 ft. by 30 ft.). He would demolish both the garages that are currently located on the property and the proposed garage would be placed in the footprint of the old garages. The proposed garage would be 3 ft. from the westerly property line with the doors facing the easement. C. Kufta asked about the purpose of the garages. L. Leiter stated that 1 was a boat garage and is in disrepair. The other is rather small; he can barely fit a car and some equipment in it. C. Kufta asked if Mr. Leiter had read of the review standards that the commission members have to go by in order to approve a variance. L. Leiter stated that he had, and went over the standards for the commission members. There are exceptional or extraordinary circumstances in that there aren't a lot of garages on the backside of the properties in this area. This variance is necessary for the preservation and enjoyment of a substantial right possessed by other properties in the same area as he is working on remodeling the home and would need the garage as a workshop also. There wouldn't be a detriment since he plans on placing the proposed garage where the current garages are located. He would also be siding the garage. This is caused by the ordinance since the street is considered the front, whereas the lake is the actual "front". The difficulty isn't founded solely upon the opportunity to make the property profitable, as there is an expense to demolition and the construction of the garage. The variance is the minimum action required to eliminate the difficulty. S. Schiller asked if Mr. Leiter had any plans for the 130 ft. of property in the front of his home. L. Leiter stated that he had no plans for that portion of the property. S. Schiller asked if there were any requirements in regards to having to pour a driveway when building a new garage. B. Moore stated that this would be a requirement if this were a new home with a garage, but since this an existing home, it isn't treated the same. R. Schweifler had clarification that the 3 ft. side setback is from the property line at the west. L. Leiter stated that was correct. R. Schweifler asked if this request followed the ordinance in regards to allowing an out building to be placed in front of the home and the setback requirements. B. Moore stated that this was the reason for the request for a variance, but it would meet the setback requirement of 3 ft. for a detached garage. B. Moore asked what kind of siding Mr. Leiter had planned on using for the garage. L. Leiter stated that it would be vinyl. J. Gleason stated that he had no problem with the original placement of the proposed garage. His problem came with the easement. Originally the easement was in place due to Mr. Leiter's (prior to him owning it) property not having road access. There is 25 ft. between his house and the property line. He was hoping that since Mr. Leiter's property does have road access, he would abandon only the 18 ft. by 32 ft. easement (in front of his home) so he could have a garage located on his property also. He also stated that if Mr. Leiter would abandon that portion of the easement, he could still use his driveway to access the garage that Mr. Leiter would like to build.

A motion to close the public hearing was made by D. Narowitz, supported by J. Clingman-Scott and unanimously approved.

J. Clingman-Scott stated that the commission members couldn't look at the easement in regards

to this variance request. She stated that if the garage was placed as proposed, and if the easement is changed, the proposed garage could be accessed under either scenario. C. Kufta stated that the new proposed placement of the garage would make this situation less nonconforming when looking at Mr. Frye's property according to the drawing Mr. Leiter provided. The proposed garage would be more in line with Mr. Frye's garage. R. Schweifler stated that the proposed garage would still be nonconforming since it would still be located in the front of the home. C. Kufta stated that he did have some concerns with having a 1500 sq. ft. nonconforming garage. S. Schiller stated that he would be more inclined to approve the request if there would be a paved driveway from the curb cut to the garage. R. Schweifler stated that he has concerns with requiring the placement of the driveway as this may be considered a "back door way" for the abandonment of the easement. R. Hilt stated that he would not be able to approve if this were going to be a way to force an agreement between the neighbors. J. Clingman-Scott stated that the commission members couldn't do anything in regards to the easement. This would place the commission members in the middle if this were the reason behind approving this request. The garage doors should face toward the east. C. Kufta stated that there would be no reason for a performance guarantee if this were approved because the old garages would have to be torn down in order to build the new one. D. Narowitz agreed. C. Kufta felt that a driveway and a garage are one package. He doesn't feel that it would be unreasonable to have the driveway placed from the curb cut to the garage. J. Clingman-Scott agreed with C. Kufta, but feels it would be best to have the driveway go from the easement (on Mr. Leiter's property only) to the garage. She felt that no one can make improvements to someone else's property or be forced to do so.

A motion that the variance to permit a 30 foot wide and 50 foot deep garage 3 feet from the front westerly property line for the home at 2984 Lakeshore Ave. be approved, based on the following review standards (found in Section 2502 of the Zoning Ordinance): a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district. b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity. c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest. d) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner. e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner. f) That the requested variance is the minimum action required to eliminate the difficulty. Based on the following conditions: 1) The 50 ft. by 30 ft. garage would be 100 ft. from Lakeshore Dr. and placed at the location of the current garages (once demolished) and have a side setback of 3 ft. Said garage shall be at least 30 feet from the eastern property line. 2) The garage doors shall not front Lakeshore Drive. 3) An improved driveway (paved) must be provided to the garage from the eastern property line off the easement. 4) Siding would be vinyl matching the house. 5) The variance is recorded with the deed to keep record of it in the future, was made by D. Narowitz, supported by J. Clingman-Scott, and failed with C. Kufta, S. Schiller, R. Hilt, and R. Schweifler voting nay.

Hearing; Case 2003-1: Request to permit a soccer scoreboard by Muskegon Catholic Central. B. Moore presented the staff report. This is a unique situation in that scoreboards are not specifically dealt with in the ordinance. They could be considered accessory structures, but staff classified the scoreboard as a sign because of the lighting. The scoreboard is 5x14 feet (70 square feet) which, staff is told, is about one-quarter of the size of the football scoreboard. The sign would be placed on the south end of the soccer field. Which way the sign faces could be a problem if the sign is bright. Currently the lights from the football field and football scoreboard glare significantly on adjacent properties. A resident on Laketon called to voice a concern about the proposed scoreboard facing north. Future residents to the south, if portions of that vacant land are developed, should also be considered in the deliberations. Bernell Sullivan of 1103 West Larch called to say he had no objections to the request. Mr. Cota of 1963 Nevada called to indicate that if the sign was behind the football field it would be O.K. Pat Collins called to say if the sign were behind the building, she would have no objections. Rose Keck of 1897 Nevada emailed staff with questions about where the light would be and said, "the current football sign is quite bright." Jane Counselor of 1979 Nevada emailed staff to ask about how often the sign would be lit.

C. Atwood provided the commission members with a copy of a survey for the property. He described the property. The proposed sign is 5 ft. by 14 ft. This sign would be like the sign located at Mona Shores schools. He provided the commission members a picture of the sign. The sign would only put out 4,800 watts, which is a lot less than the football scoreboard. There will be no lights for the soccer field. The games are only played during the day. He would propose the sign placement to be 8 or 10 ft. from the property line. The base of the sign would be 10 ft. from the ground giving the total sign height of 15 ft. There would be two groups using the soccer field. There is a girls team which would play about once a week. They have 6 or 7 home games. The second would be a soccer club. They would play 1 or 2 times per week. There would be about 15 or 16 games. The time frame would be 5 or 6 weeks. R. Hilt asked why the preference for the sign location was at the south and not the north of the property. C. Atwood stated that the coaches and the referees made the recommendation. They felt this location would work the best. The pole holding the sign would have to be wrapped in order to make sure the students aren't injured should one of them run into it. There isn't much give to the pole. D. Narowitz asked about the curb cuts that were located in the area. B. Moore stated that quite often when curbs are being put in, there are considerations made at that time for possible development of undeveloped property. This would be in case the property is developed at some time; they would already have the curb cuts in place.

A motion to close the public hearing was made by R. Schweifler, supported by C. Kufta and unanimously approved.

A motion that the variance to permit a 5 foot by 14 foot soccer scoreboard with the base 10 feet above the ground for Muskegon Catholic Central be approved, based on the following review standards (found in Section 2502 of the Zoning Ordinance): a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district. b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning

district and in the vicinity. c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest. d) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner. e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner. f) That the requested variance is the minimum action required to eliminate the difficulty. Based on the following condition: The sign be at least 10 feet from any property line, was made by R. Schweifler, supported by C. Kufta and unanimously approved.

## **OTHER**

Request for clarification on a previous variance. B. Moore presented the staff report. In July of 2002 the ZBA granted a variance to Muskegon Community College (MCC) for multiple freestanding signs. Part of that variance (minute excerpt below) included a condition of no additional signs on site. Staff would like to know if the condition was for no additional freestanding signs, or no additional signs of any kind (i.e., wall signs). MCC has recently submitted a request for wall signs. An excerpt of the July 2002 minutes were provided to the commission members for Hearing; Case 2002-14.

R. Hilt stated that MCC is a difficult college to get around. There is a need for wall signage. J. Clingman-Scott stated that there had been a concern with advertisement signage for example the Theatre having a scrolling marquee. C. Kufta asked if MCC were to build another building at the sight, would they be allowed signage for it. R. Schweifler stated that this was for no more freestanding signage. He believed it was mentioned at the meeting. There is a need for wall signage. S. Schiller agreed that this was for freestanding signs only.

A motion to change the minutes of July 2002 for Hearing; Case 2002-14 to reflect that the limit was for “free-standing signs” only, was made by R. Schweifler, supported by C. Kufta and unanimously approved.

## **Discussion on Hearing; Case 2002-25:**

R. Schweifler would like to be able to have this case re-visited. J. Clingman-Scott asked if this was a vote to have the case placed back on the agenda. S. Schiller stated that it couldn't since it was already denied. C. Kufta asked if another member could have made another motion since the one that was made was denied. S. Schiller stated the commission members could have done this. He stated that since the applicant was no longer in attendance this issue shouldn't be discussed at this time. B. Moore stated that she believes the zoning ordinance states that once a variance is denied, there is a time limit of 1 year before it could be re-applied for. The City Attorney felt that a driveway would be a reasonable condition for the variance. She check with the City Attorney as to whether or not the ZBA could ask that this be brought back at their request. There being no further business, the meeting was adjourned at 5:13 p.m.

Hmg 01/14/03